

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No.: 3:23-cv-00276-CSD

DONALD E. MITCHELL, JR.,

Plaintiff

v.

N. BREITENBACH, et al.,

Defendants

Order

Re: ECF No.42

On June 23, 2025, Plaintiff filed a proposed Fourth Amended Complaint. (ECF No. 36.)
On July 1, 2025, the court entered an order striking the proposed Fourth Amended Complaint because it was not accompanied by a motion for leave to amend in accordance with Federal Rule of Civil Procedure 15(a). (ECF No. 41.)

On July 3, 2025, Plaintiff filed an emergency motion advising the court that his proposed Fourth Amended Complaint was accompanied by a motion for leave to amend, but it was placed behind the proposed Fourth Amended complaint. (ECF No. 42.)

Plaintiff is correct that the court did not see the motion for leave to amend, which appears at pages 41 to 47 of the 207-page filing at ECF No. 36. Therefore, Plaintiff's emergency motion (ECF No. 42) is **GRANTED**.

The court **WITHDRAWS** its order at ECF No. 41.

The Clerk shall **REINSTATE** the filing at ECF No. 36.

Plaintiff's motion for leave to amend (ECF No. 36 at 41-47), which was not opposed by Defendants, is **GRANTED**. *See* LR 7-2(d).

The Clerk shall **FILE** the Fourth Amended Complaint (ECF No. 36 at 1-40, 48-207).

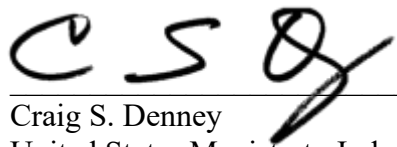
1 On or before **July 17, 2025**, the Attorney General's Office shall file a notice advising the
2 court and Plaintiff whether it will accept service for the newly added defendants: James
3 Dzurenda, Brian Williams, Sr., Kristy Fonoimoana, and Krista Harris. If it does not accept
4 service for any of these defendants, it shall file the last known address of such defendant(s) under
5 seal, but shall not serve the inmate plaintiff. If the last known address is a post office box, the
6 Attorney General's Office shall attempt to obtain and provide the last known physical
7 address(es).

8 If service cannot be accepted for any of these newly named defendants, Plaintiff shall file
9 a motion requesting issuance of a summons for the unserved defendant(s), and specify a full
10 name address for the defendant(s).

11 As to those defendants for whom the Attorney General accepts service, an answer or
12 other responsive pleading must be filed on or before **August 5, 2025**. The court will not entertain
13 a motion by Defendants for the court to screen the Fourth Amended Complaint as Defendants
14 did not bother to oppose the request for leave to amend. Defendants may file an answer or other
15 responsive pleading.

16 **IT IS SO ORDERED.**

17 Dated: July 8, 2025

18 
19 Craig S. Denney
20 United States Magistrate Judge
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